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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,284	07/19/2001	Joseph M. Dewig	5723-68359	2204
23643	7590	05/04/2004	EXAMINER	
BARNES & THORNBURG 11 SOUTH MERIDIAN INDIANAPOLIS, IN 46204				HAMDAN, WASSEEM H
		ART UNIT		PAPER NUMBER
		2854		

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Supplemental Office Action Summary</b>	Application No.	Applicant(s)
	09/909,284	DEWIG ET AL.
	Examiner	Art Unit
	Wasseem H Hamdan	2854

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 19 March 2004.  
 2a) This action is FINAL. 2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-33 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-3,5-10,12-22,24-26,28-31 and 33 is/are rejected.  
 7) Claim(s) 4,11,23,27 and 32 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 19 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1) The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2) Claims 3, 4, 15-17 and 22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 3, 15, and 22 recite, "establishing the position of the printer" (and determine the cycle position of the printer, for claim 22) in line 3 does not have support in the specification. The examiner believes that the invention according to the specification "is determining the position of the object relative to the printer" i.e. the printer is fixed and the object is movable and positioned relative to the printer [see the specification page 2, line 7-9; 14; page 4, line 7-8; page 7, line 3].

3) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4) Claims 3, 4, 15-17 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear from claims 3, 15 and 22 if the applicant means that the printer is fixed or moving to a specific position.

***Drawings***

5) The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitations about the position of the printer of claims 3, 15 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

6) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7) Claims 1, 2, 5-9, 14, 15, 16, 18, 19, 24, 25 and 28 are rejected under 35 U.S.C. 102(a) as being anticipated by Mckillip (US Patent 6,389,971 B1).

Regarding claims 1, 14, 18, 19, 24 and 25, McKillip discloses an apparatus for applying a label to an object such as a container [FIGS. 1], the apparatus comprising:

a printer [20, 22, 24, 26],

a label applicator coupled to the printer [28],

a holder configured to engage the object and move the object relative to the printer and the label applicator [FIGS. 1; ], the label applicator configured to apply a label when the object is disposed near the label applicator [28; column 3, lines 16-18], and the printer configured to print an image on a surface of the object when the object is disposed near the printer [20, 22, 24, 26; column 3, lines 7-15], and

a control coupling the printer and the label applicator to coordinate the printing of the object [FIGS. 1; column 2, 59-61, which it is inherent that the number of the individual stations (which they are connected together) are controlled by a controller].

Regarding claims 2 and 28, McKillip discloses wherein the label applicator is positioned relative to the printer such that the label is applied to the object at substantially the same time that the image is printed on the surface of the object [FIG. 1; 20, 22, 24, 26; 28; column 3, lines 7-25].

Regarding claims 5 and 6, McKillip discloses the label applicator includes means for removing the label from a backing prior to application of the label to the object [FIG. 2; column 4, lines 1-5].

Regarding claims 7 and 8, McKillip discloses wherein the retaining means retains the label with vacuum pressure [column 1, lines 44-45].

Regarding claim 9, McKillip discloses wherein the retaining means includes a valve means for supplying sufficient air flow to position and move the label [column 1, lines 44-45].

Regarding claim 15, McKillip discloses the control being configured to provide output signals establishing the position of the printer. McKillip system which perform both printing and applying label (patch), it must have, or it is inherent to have a controller to control both operations (printing and applying label) to take place as disclosed in column 3, lines 6-25 and FIGS. 1 and 2, and to provide signal to the label applicator (patch section)].

Regarding claim 16, McKillip discloses wherein the label applicator control system directs the application of one label for each set of output signals delivered by the printer [FIGS. 1 and 2, please see claim 15 rejection].

#### *Claim Rejections - 35 USC § 103*

8) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9) Claims 3, 10, 22, 26, are rejected under 35 U.S.C. 103(a) as being unpatentable over McKillip (US Patent 6,389,971 B1) in view of MaCoy et al. (US Patent 6,257,136 B1).

Regarding claims 3, 10, 22, 26, McKillip discloses the essential elements of the claimed invention, including the control being configured to provide output signals establishing the

position of the printer, because looking at the McKillip system which perform both printing and applying label (patch), it must have, or it is obvious to have a controller to control both operations (printing and applying label) to take place as disclosed in column 3, lines 6-25 and FIGS. 1 and 2, and to provide signal to the label applicator (patch section)]. However McKillip doe not disclose a programmable limit switch coupled to the printer. McCoy et al. discloses that the control system includes a programmable limit switch coupled to the printer [FIG. 21 (232); column 13, lines 40-67; column 14, lines 1-3]. It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to further modify the teachings of McKillip by including a programmable limit switch coupled to the printer, since McCoy et al. teaches a programmable limit switch coupled to the printer would be beneficial to provide a plurality of discrete electrical output control signals each designed to provide electrical control of diverse machine elements at preselected intervals during each machine cycle of a decorator.

10) Claims 3, 22, 26, are rejected under 35 U.S.C. 103(a) as being unpatentable over McKillip (US Patent 6,389,971 B1) in view of Vander Griendt et al. (US Patent 4,892,184) and further in view of MaCoy et al. (US Patent 6,257,136 B1).

Regarding claims 3, 22, 26, McKillip discloses the essential elements of the claimed invention except for the switch being configured to provide output signals establishing the position of the printer. Vander Griendt et al. discloses switch being configured to provide output signals establishing the position of the printer [column 1, lines 16-20; applicant's admission specification page 7, lines 13-16, here the limit switch is a broad term for controller, which Vander Griendt et al. teaches controls to move the object into a position relative to the printer].

It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to further modify the teachings of McKillip by including switch being configured to provide output signals establishing the position of the printer, since Vander Griendl et al. teaches switch being configured to provide output signals establishing the position of the printer would be beneficial to provide printing the image in the right place on the object .

McKillip and Vander Griendl et al. together disclose the essential elements of the claimed invention except for the control system includes a programmable limit switch coupled to the printer. McCoy et al. discloses that the control system includes a programmable limit switch coupled to the printer [FIG. 21 (232); column 13, lines 40-67; column 14, lines 1-3]. It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to further modify the teachings of McKillip by including a programmable limit switch coupled to the printer, since McCoy et al. teaches a programmable limit switch coupled to the printer would be beneficial to provide a plurality of discrete electrical output control signals each designed to provide electrical control of diverse machine elements at preselected intervals during each machine cycle of a decorator.

According to “IEEE Standard Dictionary of Electrical and Electronics Terms” page 355 (right column), “encoder: a system in which only one input is excited at a time and each input produces a combination of outputs”, and according to Rockwell article about “Programmable Limit Switch (PLS)” (is incorporated herein by reference), page 2, that one of the PLS functions is to “control outputs for press automation synchronized with the rotational position of the press crankshaft as monitored by a resolver input (function of PLS), therefore, the PLS taught by

McCoy et al. can and will do the same function as the encoder claimed in claim 20, which it is a functional means for the claimed apparatus, which the system is capable to do the same function, by using the programmable limit switch which it is taught as discussed above McCoy et al.

11) Claims 12, 13 and 17, are rejected under 35 U.S.C. 103(a) as being unpatentable over McKillip (US Patent 6,389,971 B1).

Regarding claim 12, McKillip discloses the essential elements of the claimed invention except for wherein the control system is configured to apply the label to the object prior to the completion of printing. McKillip discloses a controlled system that consists of plurality of printers and label applicator (patch station). McKillip's system is capable to performing the printing or capable of one function (printing) or the other (labeling). It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to modify the teachings of McKillip by including wherein the control system is configured to apply the label to the object prior to the completion of printing, since to applying the label to the object prior to the completion of printing would be beneficial to provide desirable looking container for different application.

Regarding claims 13 and 17, McKillip discloses the essential elements of the claimed invention except for wherein the printer is configured to omit the printed image from the portion of the object covered by the label. McKillip discloses a controlled system that consists of plurality of printers and label applicator (patch station). McKillip's system is capable to performing the printing or capable of omit the printing. It would have been obvious to a person

having ordinary skill in the art at the time of the invention was made to further modify the teachings of McKillip by including wherein the printer is configured to omit the printed image from the portion of the object covered by the label, since to omit the printed image from the portion of the object covered by the label would be beneficial to provide desirable looking container for different application.

12) Claims 20 and 21, is rejected under 35 U.S.C. 103(a) as being unpatentable over McKillip (US Patent 6,389,971 B1) in view of Vander Griendl et al. (US Patent 4,892,184).

Regarding claims 20 and 21, McKillip discloses the essential elements of the claimed invention except for wherein the control system includes an encoder and or revolver coupled to the printer, the encoder being configured to determine a cycle position of the machine. Vander Griendl et al. discloses wherein the control system includes an encoder and or revolver coupled to the printer, the encoder being configured to determine a cycle position of the machine [column 1, lines 16-20; applicant's admission specification page 7, lines 13-16]. It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to modify the teachings of McKillip by including wherein the control system includes an encoder and or revolver coupled to the printer, the encoder being configured to determine a cycle position of the machine, since it would be beneficial to provide printing the image in the right place on the object .

13) Claims 29, 30 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vander Griendl et al. (US Patent 4,892,184) in view of McKillip (US Patent 6,389,971 B1).

Regarding claim 29, Vander Griendl et al. discloses each container having an axis about which it rotates [FIG.S. 1-4B; column 4, lines 20-49], the printer comprising a printing head and container feeder configured to present each container to the printing head with each container rotating about its own axis adjacent the printing head [FIG.S. 1-4B; column 4, lines 20-49].

Vander Griendl et al. discloses the essential elements of the claimed invention except for the combination of a container printer and a label applicator configured to apply a label at a prescribed area of each container and the label applicator being positioned and configured to apply a label to each container. McKillip discloses the combination of a container printer and a label applicator configured to apply a label at a prescribed area of each container and the label applicator being positioned and configured to apply a label to each container [FIG. 21 (232); column 13, lines 40-67; column 14, lines 1-3]. It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to further modify the teachings of Vander Griendl et al. by including the combination of a container printer and a label applicator configured to apply a label at a prescribed area of each container and the label applicator being positioned and configured to apply a label to each container, since McKillip teaches the combination of a container printer and a label applicator configured to apply a label at a prescribed area of each container and the label applicator being positioned and configured to apply a label to each container would be beneficial to provide a container with both a print image and a label.

Regarding claims 30 and 33, Vander Griendl et al. discloses the essential elements of the claimed invention except for a control system for coordinating the presentation of each container

to the printing head with the application of a label. McKillip discloses a control system for coordinating the presentation of each container to the printing head with the application of a label [FIG. 21 (232); column 13, lines 40-67; column 14, lines 1-3]. It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to further modify the teachings of Vander Griendl et al. by including a control system for coordinating the presentation of each container to the printing head with the application of a label, since McKillip teaches a control system for coordinating the presentation of each container to the printing head with the application of a label would be beneficial to provide a container with both a print image and a label. McKillip discloses the control being configured to provide output signals establishing the position of the printer, McKillip system which perform both printing and applying label (patch), it must have, or it is inherent to have a controller to control both operations (printing and applying label) to take place as disclosed in column 3, lines 6-25 and FIGS. 1 and 2, and to provide signal to the label applicator (patch section)].

14) Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vander Griendl et al. (US Patent 4,892,184) in view of McKillip (US Patent 6,389,971 B1) and further in view of MaCoy et al. (US Patent 6,257,136 B1).

Regarding claim 31, Vander Griendl et al. discloses printer [column 1, lines 16-20; applicant's admission specification page 7, lines 13-16, here the limit switch is a broad term for controller, which Vander Griendl et al. teaches controls to move the object into a position relative to the printer].

Vander Griendt et al. and McKillip together disclose the essential elements of the claimed invention except for the control system includes a programmable limit switch coupled to the printer. McCoy et al. discloses that the control system includes a programmable limit switch coupled to the printer [FIG. 21 (232); column 13, lines 40-67; column 14, lines 1-3]. It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to further modify the teachings of McKillip by including a programmable limit switch coupled to the printer, since McCoy et al. teaches a programmable limit switch coupled to the printer would be beneficial to provide a plurality of discrete electrical output control signals each designed to provide electrical control of diverse machine elements at preselected intervals during each machine cycle of a decorator.

According to “IEEE Standard Dictionary of Electrical and Electronics Terms” page 355 (right column), “encoder: a system in which only one input is excited at a time and each input produces a combination of outputs”, and according to Rockwell article about “Programmable Limit Switch (PLS)” (is incorporated herein by reference), page 2, that one of the PLS functions is to “control outputs for press automation synchronized with the rotational position of the press crankshaft as monitored by a resolver input (function of PLS), therefore, the PLS taught by McCoy et al. can and will do the same function as the encoder claimed in claim 20, which it is a functional means for the claimed apparatus, which the system is capable to do the same function, by using the programmable limit switch which it is taught as discussed above McCoy et al.

***Allowable Subject Matter***

15) Claims 4, 11, 23 and 27 would be allowable if :

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- a) rewritten to overcome the rejection(s) under 35 U.S.C. 112, first paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
- b) rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
- c) rewritten in independent form including all of the limitations of the base claim and any intervening claims

Regarding claim 4 the prior art of records does not teach all the combined elements or components of an apparatus for applying a label to an object such as a container or cup, including an actuator coupled to the label applicator and coupled to the programmable limit switch, the actuator being configured to control the label applicator in response to the output signals from the programmable limit switch.

Regarding claim 11 the prior art of records does not teach all the combined elements or components of an apparatus for applying a label to an object such as a container or cup, including an actuator coupled to the programmable limit switch for actuating the label applicator in response to the signal from the programmable limit switch.

Regarding claim 23 the prior art of records does not teach all the combined elements or components of a machine for a machine for printing images on containers and applying labels to

the containers, the machine configured to hold the containers, the machine, including wherein the control system further comprises an actuator coupled to the label applicator, the actuator being configured to communicate with the programmable limit switch and coordinate the operation of the label applicator with the operation of the printer.

Regarding claim 27 the prior art of records does not teach all the combined elements or components of a machine for printing images on containers, each container being presented by the machine to receive an image, including wherein the control system further includes an actuator configured to communicate with the programmable limit switch and coordinate the application of the label with the receipt of the image by the container.

Claim 32 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claim 32 the prior art of records does not teach all the combined elements or components of the combination of a container printer and a label applicator configured to apply a label at a prescribed area of each container, each container having an axis about which it rotates, including wherein the control system further comprises an actuator configured to communicate with the programmable limit switch and direct the operation of the label applicator based on the communication with the programmable limit switch.

***Response to Arguments***

Applicant's remarks filed on 03/19/2004 are moot since a new rejection is presented as set forth in this office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wasseem H Hamdan whose telephone number is (571) 272-2166. The examiner can normally be reached on M-F (first Friday off) 6:30 AM- 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew H Hirshfeld can be reached on (571) 272-2168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wassem H. Hamdan

April 26, 2004



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